

**Summary of Parliamentary Office of Science and Technology and Royal Town Planning Institute Seminar Appraising major infrastructure projects
23 May 2002, Attlee Suite Portcullis House, Westminster, 9.30 am -12.00 pm.**

Background

The Government's proposals for new Parliamentary procedures for making decisions in principle on major infrastructure projects (MIPs) raise many questions related to what parliamentary procedures could be adopted. Questions arise on how robust technical appraisal of projects can be undertaken and how effective public involvement can be assured.

POST and the RTPI convened this seminar to assist the inquiry into these topics by the House of Commons Procedure Committee.¹

It followed previous POST briefing notes on these topics² and was timed to take part between the Committee's initial oral evidence session with the Planning Minister on 7 May and the main bulk of its inquiry over the summer. The seminar did not set out to question the need for the new procedures, but to focus on how, should new procedures be adopted, they could be implemented most effectively.

The presentations

Nicholas Winterton MP, Chairman of the House of Commons Procedure Committee

The Procedure Committee's inquiry was still in its early stages. Many important and far-reaching issues concerning how Parliament might have to deal with major projects were emerging. It was stressed that Parliament's credibility rested on ensuring that any procedures it adopted were fair, and were seen to be so. To achieve this, proper scrutiny was necessary. Without this scrutiny there was a danger that Parliament's standing would be diminished

Lord Falconer's evidence to the Committee on 7 May³ had showed up three key issues. He had acknowledged the proposed timetable of 60 days would not be sufficient for adequate scrutiny; votes on any decisions in principle on major infrastructure projects or draft Orders would not be whipped; and all arguments from interested parties should be properly aired. The Procedure Committee believed that any new Parliamentary procedures for MIPs needed to be fair and as objective as possible. This meant that Parliament, in scrutinising proposals, had to seek expert advice and hear from all interests. The Committee, however, needed help in determining both how Parliament should scrutinise MIPs and deciding whether decisions on principle and location should be taken out of the hands of planning inspectors and the Secretary of State.

Should Parliament decide that Parliamentary involvement in approving the principle of MIPs was appropriate, it would have to consider how such decisions would be handled.. In order to inform Parliament's consideration of the procedural issues, the Procedure Committee's inquiry would address the following major concerns:

- How large should any scrutiny committee be?
- What level of technical support should a committee have?
- Was there a case for independent technical assessment of a MIP before the Parliamentary procedures began?
- Would committee members be trained in technical issues and appraisal techniques?
- Who should be invited to give evidence to a committee? Should any groups have specific rights of appearance?
- How should witnesses be heard (e.g. directly by a committee, or through counsel (as at present in committees on private bills)?
- Should there be any restrictions on decisions made?
- What length of time would a typical inquiry take?

¹ The following members of the Procedure Committee were present (either in whole or in part): Nicholas Winterton, John Burnett, David Hamilton, Eric Illsley, Eric Joyce, Rosemary McKenna and Desmond Swayne. The Clerk, Second Clerk and Committee Assistant were also present.

² POSTnote 153, *Open Channels: public dialogue in science and technology*, March 2001; POSTnote 173, *Appraising major infrastructure projects*, February 2002

³ www.publications.parliament.uk/pa/cm200102/cmselect/cmproced/uc823-i/uc82301.htm

Vincent Goodstadt, Senior Vice-President, Royal Town Planning Institute

Why are we seeking change? Currently, there was a 'pot pourri' of procedures for MIPs, the mode of examination was often confrontational and decisions by ministers were unfettered. Decisions needed to be effective, informed and accepted. In reality, however, they were not effective, the burden of evidence was too large, and there was little public confidence in the soundness of the outcome.

In terms of seeking to achieve sustainable development, current procedures affected competitiveness, created and exacerbated regional inequalities, and led to environmental degradation. Moreover, current practice overemphasised short-term thinking and reinforced unsustainable patterns of development.

What was required? Three questions could be asked:

- Which decisions should be made? i.e. on national assets (e.g. Heathrow), cross-regional projects (e.g. West Coast Rail), inter-regional choices (e.g. power stations) or 'ring-fenced' resources (e.g. Enterprise Zones).
- What should be tested - policy or projects? Project based evaluation was limited by having limited consensus on method or context (e.g. employment, economic growth, distribution of economic, social and environmental costs and benefits, or the options available). Also, current procedures did not provide a wider strategic 'vision' within which projects can be seen. As an alternative, a UK National Spatial Planning Framework was needed. This would benefit project evaluation and leave matters of detail to local interests. It would also reduce pressure on parliament, with only very few very large projects coming before it for scrutiny. Lastly, the framework would promote an integrated approach to policy making across government departments.
- How could expert scrutiny be ensured? The status quo led to partial or effectively non-existent scrutiny, but the Government's proposals suggested an unrealistic timescale for adequate scrutiny. RTPI was promoting the idea of a Major Projects Evaluation Commission (MPEC) as a standing expert agency of Parliament (akin to the National Audit Office).

Overall, RTPI believed that a 'quantum shift' was needed from a planning system that promoted short-term responses to one that sought to promote long-term visions.

Andrew Brookes, Gifford Consulting and International Association for Impact Assessment

Over the last twenty years the practice of project appraisal had moved on considerably, with recent emphasis on 'integrated appraisal' that took account of the environmental, social and economic effects of development. Practice varied, however, from tried and tested approaches (such as cost-benefit analysis, risk assessment and environmental assessment) to more 'aspirational' approaches (such as 'sustainability appraisal').

To work properly, appraisal had to take place in parallel with the decision process, or the decision could not be said to be properly informed.

Three core principles of appraisal applied:

- Proportionality - appraisal of a project should be fit for its purpose
- Transparency - there should be a clear audit trail in the analysis to allow scrutiny
- Review - the initial objectives should be tested against the outcomes.

Good practice had demonstrated that all the relevant factors arising from a project needed to be considered and that effects, impacts and mitigation needed to be examined. There were well-defined stages to the appraisal process (project definition, baseline assessment, feasibility assessment of options; identification of the preferred option; implementation; and post-project review and evaluation).

Appraisal was often carried out in-house, but not by those formulating the decision. There had to be a link between the decision-makers and the appraisal process to ensure that it met the objectives of the decision-making process. In terms of sustainable development, there was often a pragmatic approach taken to appraisal such that it tends to 'work towards' (rather than

'delivering') sustainability. There had been some work on developing appraisal tools that aimed to deliver sustainability, but these had not yet been widely used, despite increasing interest. Appraisal had to be scientifically rigorous, and this rested on the highest standards of data and analysis. At the same time, many appraisals tended to rely on qualitative and descriptive analysis, or at best could identify risks and benefits (more complex processes, such as using weighting of criteria, were rare). The results of appraisal were often presented in simple graphical or tabular form, easily digested by decision-makers.

The question of public legitimacy was vital, not only to help avoid conflict, but to help build consensus around a project and also to improve the quality of the appraisal itself. Overall, there was now considerable practical experience of conducting appraisals, and this could be built on. However, a few key issues remained, in particular: timescale and resources available, data quality; stakeholder involvement; training of decision-makers and professionals; and review and refinement of appraisal tools.

Maria Adebowale, Director, Capacity Global

Community groups often had poor experiences with the land-use planning system. This led many to mistrust those involved: developers, professionals and politicians. Making sure that the public was sufficiently involved in the decision-making process was the key to the success of any new procedures for MIPs. However, public involvement was not a new issue - questions of natural justice and equity had been around for many years, and had been enshrined in international declarations (e.g. Principle 10 of the 1992 Rio Declaration).

Questions about public involvement around MIPs involved issues not just of the technical appraisals of the project and whether the benefits outweighed the impacts, but also of wider issues related to the emerging general context in which policy was now being made. This included local government and democracy; inclusiveness and equity; community development; opening up decision making; empowering local people; and urban and regional regeneration.

The 1998 Aarhus Convention⁴ set out to introduce environmental justice into decision-making, covering access to information, participation in decision-making and access to judicial procedures to seek redress. The Convention also required local access to relevant information and the decision-making process, and hence any new Parliamentary procedures for MIPs should also seek evidence from locally affected people and groups. Not only would this assist in the scrutiny of the project itself, but also help Parliament to be seen to be making the right decisions. The UK had signed the Aarhus Convention, but not yet ratified it: the timetable for ratification was unclear. However, the Vienna Convention on Laws and Treaties required signatories to any Convention (who had not yet ratified that Convention) not to act against the principles of that Convention.

The Aarhus Convention required:

- Notification - i.e. setting out the proposed activity, when it was likely to start, what opportunities existed to participate and where information could be obtained.
- Sufficient time for public involvement (this was likely to be very much more than the 60 days set out in the Government's proposals)
- Scoping - i.e. identification of the full range of issues likely to arise from the project, plus the interested parties who are most likely to be affected.

Overall, the Aarhus Convention required accessibility. Proper accessibility would take time and resources. Nevertheless, Aarhus created a broad opportunity to secure real public involvement. Following the Aarhus criteria was likely to lead to better decision-making on MIPs, and would enhance Parliament's own standing as an institution that was connected with its citizens.

⁴ Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, done at Aarhus, Denmark, 25 June 1998.

Summary of points arising in discussion

The discussion raised many points that can be summarised as follows:

- **History and the present system** - although there were problems with the current system, previous experience of Private Bill procedure had convinced some that Parliament was not equipped to act in the role of a quasi-planning authority.
- **Focus of reform** - Many participants argued that the emphasis of the reform of the planning system should be on policies and programmes, rather than on projects themselves. The Minister had appeared reluctant to countenance any formal role for parliament in the policy-setting process (beyond its normal scrutiny function), though there had been indications that concessions might be made here.
- **Designation of projects as MIPs** - much of the debate surrounding MIPs rested on the likely frequency with which such projects are likely to come forward. This depended heavily on which projects are designated as MIPs. This consequently raised questions about the basis for such designation. Issues here included whether a project could be considered of national importance, and whether MIP designation would also encompass sub-national, but cross-regional projects. A consensus that only a very few very large projects were likely to be designated for parliamentary scrutiny appeared to emerge. Suggestions ranged from one every few years to a few each year.
- **Principle versus detail** - there was considerable discussion about the ability of any new Parliamentary procedure to separate sufficiently matters of detail and principle. Many participants expressed significant doubt about whether such a thing was possible, and some questioned whether it was appropriate to ask Parliament even to attempt it.
- **Ensuring robust appraisal** - Participants discussed how, should new procedures be adopted, projects would be appraised. Issues raised included who should undertake appraisal - i.e. in-house, outsourced, or given over to an independent agency (such as the major projects evaluation commission suggested by the RTPI). Questions of method, quality and timing were also discussed with evidence put forward of a small, but growing set of tools and techniques for evaluating the economic, environmental and social implications of MIPs in an integrated way. Fundamental to this, however, was the need to ensure that the appropriate questions were asked of the appropriate persons. Overall, it was agreed that proper appraisal took time and should be undertaken by competent people with a mandate to do so, who should be accountable to the decision-making body.
- **Ensuring adequate public involvement** - Public involvement in any new Parliamentary procedures for MIPs was seen as vital to ensure the integrity of the process. In addition, it was seen to have value in improving the appraisal process, improving the standing of Parliament generally and being ethically the 'right' thing to do. Much discussion was centred upon the requirements of the Aarhus Convention, in particular the need to give otherwise traditionally excluded or 'hard to reach' groups adequate access to any new procedures. There was some discussion about whether any new Parliamentary scrutiny committee for MIPs should visit areas likely to be affected by the projects, and actively seek public involvement at a local level. It was noted that people's willingness to participate in a Parliamentary process could not be taken for granted. Members of the public petitioning against private bills, for example, had often felt intimidated by the surroundings of Westminster, and many had feared suffering an 'inquisition' when giving evidence, either before Members or under cross-examination by counsel. Members of the public might also feel that their access to expertise and the resources available to them to investigate the impact of proposed new projects was limited in relation to the resources available to developers. Overall, public involvement needed to be an integral part of appraisal. Securing appropriate public involvement would not be easy, and was likely to take time and resources.

Overarching questions - cutting across the areas outlined above, further issues were also raised:

- **Would parliamentary scrutiny of MIPs actually meet the government's objective to speed up the planning system for MIPs?** Would introducing an additional stage in the decision-making process speed up the process, particularly when issues of principle and detail might not be easily distinguished? Was the Heathrow T5 inquiry, often cited as the compelling reason for the introduction of new procedures, simply a very large project with a unique and extraordinary number of complicating factors?
- **Who should pay for the process?** Should developers pay for the administration of their applications, and central government (rather than local government) bear the expenditure of setting up the systems and processes to deal with those applications?
- **What would be the political costs of such new procedures?** What would the impact be on individual MPs? In particular, concerns were raised about MPs 'committing political suicide' if they voted in principle for a development that harmed their own or neighbouring constituencies, either by imposing an MIP on a sensitive area or deciding not to award it to a needy one.
- **What would be the likely burdens on Members' time?** Members serving on private bill committees in the past had been obliged to sign declarations that they had no connection whatsoever with the project which the Bill aimed to enable. Bill committees required a major time commitment (sometimes three sittings a week over several weeks), and it was felt unlikely that, at a time when pressure on Members' time was increasing, they would be willing to serve on a committee from which they could derive no political benefit. There was some discussion about the level of expertise likely to be required of Members of either House selected to serve on a committee created to consider an MIP.
- **What would be the effect on the reputation of Parliament?** To ensure legitimacy, the general principles of openness, fairness and impartiality should be adopted.

Gary Kass
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Martyn Atkins
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11 June 2002